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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 2013-980

12 **ROSARIO FLORES GUINTO**
10027 Willow Wood Way
13 Houston, Texas 77070

A C C U S A T I O N

14 **Registered Nurse License No. 597877**

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16 Respondent.

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18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about April 10, 2002, the Board of Registered Nursing issued Registered Nurse
24 License Number 597877 to Rosario Flores Guinto (Respondent). The Registered Nurse License
25 was in full force and effect at all times relevant to the charges brought herein and expired on
26 November 30, 2009.

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JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time.

STATUTORY PROVISIONS

6. Section 2761 of the Code states:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct, which includes, but is not limited to, the following:

....

(4) Denial of licensure, revocation, suspension, restriction, or any other disciplinary action against a health care professional license or certificate by another state or territory of the United States, by any other government agency, or by another California health care professional licensing board. A certified copy of the decision or judgment shall be conclusive evidence of that action.

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COST RECOVERY

7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case, with failure of the licentiate to comply subjecting the license to not being

1 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
2 included in a stipulated settlement.

3 **FIRST CAUSE FOR DISCIPLINE**

4 **(Unprofessional Conduct – Disciplinary Action by Another Health Care Agency –**
5 **Texas Board of Nursing)**

6 8. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4), on
7 the grounds of unprofessional conduct in that Respondent was disciplined by the Texas Board of
8 Nursing *In the Matter of Registered Nurse License Number 686450 issued to ROSARIO FLORES*
9 *GUINTO* for violation of Texas Occupations Code sections 301.452, subsections (b)(10)
10 (unprofessional or dishonorable conduct that, in the board's opinion, is likely to deceive, defraud
11 or injure a patient or the public) and (b)(13) (failure to care adequately for a patient or to conform
12 to the minimum standards of acceptable nursing practice in a manner that, in the board's opinion,
13 exposes a patient or other person unnecessarily to risk of harm). The circumstances are as
14 follows:

15 9. In or about May 18, 2010, the Texas Board of Nursing held an informal hearing
16 where Respondent admitted to the following allegations:

17 10. On or about November 6, 2006, while Respondent was employed at St. Luke's
18 Episcopal Hospital (St. Luke's) in Houston, Texas, Respondent failed to assess and intervene in a
19 timely manner, including administration of pain medication, when Patient Number 02484287
20 complained of post-operative pain. The patient did not receive pain medication between 9:15
21 p.m. and 5:03 a.m. the following morning, and that pain assessment was not documented,
22 resulting in the patient unnecessarily suffering post-operative pain and discomfort.

23 11. Between or about December 27, 2006 through December 28, 2006, while Respondent
24 was employed at St. Luke's, Respondent failed to administer the parenteral nutrition supplement
25 Procalamine to Patient Number 0635100354 as ordered, and did not notify the physician of the
26 omitted dose. Respondent's conduct was likely to injure the patient in that failure to administer
27 medications as ordered by the physician could have resulted in improper treatment.

12. Between or about December 28, 2006 through January of 2007, while employed at St. Luke's, Respondent crossed the boundaries of the appropriate nurse/client relationship in that after having been placed on administrative leave regarding care of the aforementioned Patient Number 0635100354, Respondent telephonically contacted the patient at home. The patient's wife complained to the hospital that Respondent had placed a telephone call to their home after the patient was discharged. Respondent's conduct was likely to injure the patient in that it could have resulted in confusion regarding the care the patient received and the care the nurse delivered.

13. On or about June 9, 2010, Respondent entered into an Agreed Order with the Texas Board of Nursing with terms and conditions that included remedial education to be completed within one year of the Agreed Order. The remedial education included courses in Texas jurisprudence and ethics, medication administration, nursing documentation, and courses entitled "Sharpening Critical Thinking Skills" and "Respecting Professional Boundaries."

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 597877 issued to Rosario Flores Guinto;

2. Ordering Rosario Flores Guinto to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: April 26, 2013

Louise R. Bailey
LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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